

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 238

SENATE BILL 1100

AN ACT

AMENDING SECTIONS 11-251 AND 11-352, ARIZONA REVISED STATUTES; AMENDING SECTION 12-128, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 6, SECTION 2; RELATING TO COUNTY BOARD OF SUPERVISORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-251, Arizona Revised Statutes, is amended to
3 read:

4 11-251. Powers of board

5 The board of supervisors, under such limitations and restrictions as
6 are prescribed by law, may:

7 1. Supervise the official conduct of all county officers and officers
8 of all districts and other subdivisions of the county charged with assessing,
9 collecting, safekeeping, managing or disbursing the public revenues, see that
10 such officers faithfully perform their duties and direct prosecutions for
11 delinquencies, and, when necessary, require the officers to renew their
12 official bonds, make reports and present their books and accounts for
13 inspection.

14 2. Divide the counties into such districts or precincts as required by
15 law, change them and create others as convenience requires.

16 3. Establish, abolish and change election precincts, appoint
17 inspectors and judges of elections, canvass election returns, declare the
18 result and issue certificates thereof.

19 4. Lay out, maintain, control and manage public roads, ferries and
20 bridges within the county and levy such tax for that purpose as may be
21 authorized by law.

22 5. Provide for the care and maintenance of the sick of the county,
23 erect and maintain hospitals for that purpose and, in its discretion, provide
24 a farm in connection with the county hospital and adopt ordinances for
25 working the farm.

26 6. Provide suitable rooms for county purposes.

27 7. Purchase, receive by donation or lease real or personal property
28 necessary for the use of the county prison and take care of, manage and
29 control the property, but no purchase of real property shall be made unless
30 the value has been previously estimated by three disinterested citizens of
31 the county, appointed by the board for that purpose, and no more than the
32 appraised value shall be paid for the property.

33 8. Cause to be erected and furnished a courthouse, jail and hospital
34 and such other buildings as necessary, and construct and establish a branch
35 jail, when necessary, at a point distant from the county seat.

36 9. Sell at public auction, after thirty days' previous notice given by
37 publication in a newspaper of the county, stating the time and place of the
38 auction, and convey to the highest bidder, for cash or contract of purchase
39 extending not more than ten years from the date of sale and upon such terms
40 and conditions and for such consideration as the board shall prescribe, any
41 property belonging to the county that the board deems advantageous for the
42 county to sell, or that the board deems unnecessary for use by the county,
43 and shall pay the proceeds thereof into the county treasury for use of the
44 county, except that personal property need not be sold but may be used as a
45 trade-in on the purchase of personal property when the board deems this

1 disposition of the personal property to be in the best interests of the
2 county. When the property for sale is real property, the board shall have
3 such property appraised by a qualified independent fee appraiser who has an
4 office located in this state. The appraiser shall establish a minimum price,
5 which shall not be less than ninety per cent of the appraised value. The
6 notice regarding the sale of real property shall be published in the county
7 where the property is situated and may be published in one or more other
8 counties, and shall contain, among other things, the appraised value, the
9 minimum acceptable sale price, and the common and legal description of the
10 real property. Notwithstanding the requirement for a sale at public auction
11 prescribed in this paragraph, a county,— AND with unanimous consent of the
12 board, without a public auction, may sell or lease any county property to any
13 other duly constituted governmental entity, including the state, cities,
14 towns and other counties. A county,— AND with unanimous consent of the
15 board, without public auction, may grant an easement on county property for
16 public purposes to a utility as defined in section 40-491. A county,— AND
17 with unanimous consent of the board, without public auction, may sell or
18 lease any county property for a specific use to any solely charitable, social
19 or benevolent nonprofit organization incorporated or operating in this state.
20 A county may dispose of surplus equipment and materials that have little or
21 no value or that are unauctionable in any manner authorized by the board.

22 10. Examine and exhibit the accounts AND PERFORMANCE of all officers
23 having the care, management, collection or disbursement of money MONIES
24 belonging to the county or appropriated by law or otherwise for the use and
25 benefit of the county. THE WORKING PAPERS AND OTHER AUDIT FILES IN AN
26 EXAMINATION AND AUDIT OF THE ACCOUNTS AND PERFORMANCE OF A COUNTY OFFICER ARE
27 NOT PUBLIC RECORDS AND ARE EXEMPT FROM TITLE 39, CHAPTER 1. THE INFORMATION
28 CONTAINED IN THE WORKING PAPERS AND AUDIT FILES PREPARED PURSUANT TO A
29 SPECIFIC EXAMINATION OR AUDIT IS NOT SUBJECT TO DISCLOSURE, EXCEPT TO THE
30 COUNTY ATTORNEY AND THE ATTORNEY GENERAL IN CONNECTION WITH AN INVESTIGATION
31 OR ACTION TAKEN IN THE COURSE OF THEIR OFFICIAL DUTIES.

32 11. Examine, settle and allow all accounts legally chargeable against
33 the county, order warrants to be drawn on the county treasurer for that
34 purpose and provide for issuing the warrants.

35 12. Levy such tax annually on the taxable property of the county as may
36 be necessary to defray the general current expenses thereof, including
37 salaries otherwise unprovided for, and levy such other taxes as are required
38 to be levied by law.

39 13. Equalize assessments.

40 14. Direct and control the prosecution and defense of all actions to
41 which the county is a party, and compromise them.

42 15. Insure the county buildings in the name of and for the benefit of
43 the county.

44 16. Fill by appointment all vacancies occurring in county or precinct
45 offices.

1 17. Adopt provisions necessary to preserve the health of the county,
2 and provide for the expenses thereof.

3 18. With the approval of the department of health services, contract
4 with any qualified person to provide all or part of the health services,
5 funded through the department of health services with federal or state
6 monies, that the board in its discretion extends to residents of the county.

7 19. Contract for county printing and advertising, and provide books and
8 stationery for county officers.

9 20. Provide for rebinding county records, or, if necessary, the
10 transcribing of county records.

11 21. Make and enforce necessary rules and regulations for the government
12 of its body, the preservation of order and the transaction of business.

13 22. Adopt a seal for the board, a description and impression of which
14 shall be filed by the clerk in the office of the county recorder and the
15 secretary of state.

16 23. Establish, maintain and conduct or aid in establishing, maintaining
17 and conducting public aviation fields, purchase, receive by donation or lease
18 any property necessary for that purpose, lease, at a nominal rental if
19 desired, sell such aviation fields or property to the United States or any
20 department, or sell or lease such aviation fields to a city, exchange lands
21 acquired pursuant to this section for other lands, or act in conjunction with
22 the United States in maintaining, managing and conducting all such property.
23 If any such property or part of that property is not needed for these
24 purposes, it shall be sold by the board and the proceeds shall be paid into
25 the general fund of the county.

26 24. Acquire and hold property for the use of county fairs, and conduct,
27 take care of and manage them.

28 25. Authorize the sheriff to offer a reward, not exceeding ten thousand
29 dollars in one case, for information leading to the arrest and conviction of
30 persons charged with crime.

31 26. Contract for the transportation of insane persons to the state
32 hospital or direct the sheriff to transport such persons. The county is
33 responsible for such expense to the extent the expense is not covered by any
34 third party payor.

35 27. Provide for the reasonable expenses of burial for deceased
36 indigents as provided in section 36-831 and maintain a permanent register of
37 deceased indigents, including name, age and date of death, and when burial
38 occurs, the board shall mark the grave with a permanent marker giving the
39 name, age, and date of birth, if known.

40 28. Sell or grant to the United States the title or interest of the
41 county in any toll road or toll train in or partly within a national park,
42 upon such terms and consideration as may be agreed upon by the board and the
43 secretary of the interior of the United States.

44 29. Enter into agreements for acquiring rights-of-way, construction,
45 reconstruction or maintenance of highways in their respective counties,

1 including highways that pass through Indian reservations, with the government
2 of the United States, acting through its duly authorized officers or agents
3 pursuant to any act of Congress, except that the governing body of any Indian
4 tribe whose lands are affected must consent to the use of its land, and any
5 such agreements entered into before June 26, 1952 are validated and
6 confirmed.

7 30. Do and perform all other acts and things necessary to the full
8 discharge of its duties as the legislative authority of the county
9 government, including receiving and accepting payment of monies by credit
10 card or debit card, or both. Any fees or costs incurred by the use of the
11 credit or debit card shall be paid by the person tendering payment unless the
12 charging entity determines that the financial benefits of accepting credit
13 cards or debit cards exceeds the additional processing fees.

14 31. Make and enforce all local, police, sanitary and other regulations
15 not in conflict with general law.

16 32. Budget for funds for foster home care during the school week for
17 mentally retarded and otherwise handicapped children who reside within the
18 county and attend a school for the handicapped in a city or town within such
19 county.

20 33. Do and perform all acts necessary to enable the county to
21 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.
22 508), as amended.

23 34. Provide a plan or plans for its employees that provide tax deferred
24 annuity and deferred compensation plans as authorized pursuant to title 26,
25 United States Code. Such plans shall allow voluntary participation by all
26 employees of the county. Participating employees shall authorize the board
27 to make reductions in their remuneration as provided in an executed deferred
28 compensation agreement.

29 35. Adopt and enforce standards for shielding and filtration of
30 commercial or public outdoor portable or permanent light fixtures in
31 proximity to astronomical or meteorological laboratories.

32 36. Subject to the prohibitions, restrictions and limitations as set
33 forth in section 11-830, adopt and enforce standards for excavation, landfill
34 and grading to prevent unnecessary loss from erosion, flooding and
35 landslides.

36 37. Make and enforce necessary ordinances for the operation and
37 licensing of any establishment not in the limits of an incorporated city or
38 town in which is carried on the business of providing baths, showers or other
39 forms of hydrotherapy or any service of manual massage of the human body.

40 38. Provide pecuniary compensation as salary or wages for overtime work
41 performed by county employees, including those employees covered by title 23,
42 chapter 2, article 9. In so providing, the board may establish salary and
43 wage plans incorporating classifications and conditions prescribed by the
44 federal fair labor standards act.

1 39. Establish, maintain and operate facilities that provide for
2 physical evaluation, diagnosis and treatment of patients and that do not keep
3 patients overnight as bed patients or treat patients under general
4 anesthesia.

5 40. Enact ordinances under its police authority prescribing reasonable
6 curfews in the entire unincorporated area or any area less than the entire
7 unincorporated area of the county for minors and fines not to exceed the fine
8 for a petty offense for violation of such ordinances. Nothing in this
9 paragraph shall be construed to require a request from an association or a
10 majority of the residents of an area before the board may enact an ordinance
11 applicable to the entire or any portion of the unincorporated area. An
12 ordinance enacted pursuant to this paragraph shall provide that a minor is
13 not violating a curfew if the minor is accompanied by a parent, a guardian or
14 an adult having supervisory custody, is on an emergency errand or has been
15 specifically directed to the location on reasonable, legitimate business or
16 some other activity by the parent, guardian or adult having supervisory
17 custody. If no curfew ordinance is applicable to a particular unincorporated
18 area of the county, the board may adopt a curfew ordinance on the request or
19 petition of either:

20 (a) A homeowners' association that represents a majority of the
21 homeowners in the area covered by the association and to which the curfew
22 would apply.

23 (b) A majority of the residents of the area to which the curfew would
24 apply.

25 41. Lease or sublease personal property owned by the county to other
26 political subdivisions of this state to be used for a public purpose.

27 42. In addition to the agreements authorized by section 11-651, enter
28 into long-term agreements for the purchase of personal property, provided
29 that the board may cancel any such agreement at the end of a fiscal year, at
30 which time the seller may repossess the property and the agreement shall be
31 deemed terminated.

32 43. Make and enforce necessary ordinances not in conflict with the laws
33 of this state to regulate off-road recreational motor vehicles that are
34 operated within the county on public lands without lawful authority or on
35 private lands without the consent of the lawful owner or that generate air
36 pollution. For the purposes of this paragraph, "off-road recreational motor
37 vehicle" means three and four wheel vehicles manufactured for recreational
38 nonhighway all terrain travel.

39 44. Acquire land for roads, drainage ways and other public purposes by
40 exchange without public auction, except that notice shall be published thirty
41 days before the exchange, listing the property ownership and descriptions.

42 45. Purchase real property for public purposes, provided that final
43 payment shall be made not later than five years after the date of purchase.

44 46. Lease-purchase real property and improvements for real property for
45 public purposes, provided that final payment shall be made not later than

1 twenty-five years after the date of purchase. Any increase in the final
2 payment date from fifteen years up to the maximum of twenty-five years shall
3 be made only on unanimous approval by the board of supervisors.

4 47. Make and enforce ordinances for the protection and disposition of
5 domestic animals subject to inhumane, unhealthful or dangerous conditions or
6 circumstances provided that nothing in this paragraph limits or restricts the
7 authority granted to incorporated cities and towns or counties pursuant to
8 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
9 restrict or limit the authority of the game and fish commission to regulate
10 the taking of wildlife. For the purposes of this paragraph, "domestic
11 animal" means an animal kept as a pet and not primarily for economic
12 purposes.

13 48. If a part of a parcel of land is to be taken for roads, drainage,
14 flood control or other public purposes and the board and the affected
15 property owner determine that the remainder will be left in such a condition
16 as to give rise to a claim or litigation concerning severance or other
17 damage, acquire the whole parcel by purchase, donation, dedication, exchange,
18 condemnation or other lawful means, and the remainder may be sold or
19 exchanged for other properties needed for any public purpose.

20 49. Make and enforce necessary rules providing for the reimbursement of
21 travel and subsistence expenses of members of county boards, commissions and
22 advisory committees when acting in the performance of their duties, if the
23 board, commission or advisory committee is authorized or required by federal
24 or state law or county ordinance, and the members serve without compensation.

25 50. Provide a plan or plans for county employee benefits that allow for
26 participation in a cafeteria plan that meets the requirements of the United
27 States internal revenue code of 1986.

28 51. Provide for fringe benefits for county employees, including sick
29 leave, personal leave, vacation and holiday pay and jury duty pay.

30 52. Make and enforce ordinances that are more restrictive than state
31 requirements to reduce or encourage the reduction of carbon monoxide and
32 ozone levels, provided an ordinance does not establish a standard for
33 vehicular emissions, including ordinances to reduce or encourage the
34 reduction of the commuter use of motor vehicles by employees of the county
35 and employees whose place of employment is in unincorporated areas of the
36 county.

37 53. Make and enforce ordinances to provide for the reimbursement of up
38 to one hundred per cent of the cost to county employees of public bus or van
39 pool transportation to and from their place of employment.

40 54. Lease for public purposes any real property, improvements for real
41 property and personal property under the same terms and conditions, to the
42 extent applicable, as are specified in sections 11-651 and 11-653 for
43 lease-purchases.

44 55. Enact ordinances prescribing regulation of alarm systems and
45 providing for civil penalties to reduce the incidence of false alarms at

1 business and residential structures relating to burglary, robbery, fire and
2 other emergencies not within the limits of an incorporated city or town.

3 56. In addition to paragraph 9 of this section, and notwithstanding
4 section 23-504, sell or dispose of, at no less than fair market value, county
5 personal property that the board deems no longer useful or necessary through
6 a retail outlet or to another government entity if the personal property has
7 a fair market value of no more than one thousand dollars, or by retail sale
8 or private bid, if the personal property has a fair market value of no more
9 than fifteen thousand dollars. Notice of sales in excess of one thousand
10 dollars shall include a description and sale price of each item and shall be
11 published in a newspaper of general circulation in the county, and for thirty
12 days after notice other bids may be submitted that exceed the sale price by
13 at least five per cent. The county shall select the highest bid received at
14 the end of the thirty day period.

15 57. Sell services, souvenirs, sundry items or informational
16 publications that are uniquely prepared for use by the public and by
17 employees and license and sell information systems and intellectual property
18 developed from county resources that the county is not obligated to provide
19 as a public record.

20 58. On unanimous consent of the board of supervisors, license, lease or
21 sell any county property pursuant to paragraphs 56 and 57 of this section at
22 less than fair market value to any other governmental entity, including this
23 state, cities, towns, public improvement districts or other counties within
24 or outside of this state, or for a specific purpose to any charitable, social
25 or benevolent nonprofit organization incorporated or operating in this state.

26 59. On unanimous consent of the board of supervisors, provide technical
27 assistance and related services to a fire district pursuant to an
28 intergovernmental agreement.

29 60. Adopt contracting procedures for the operation of a county health
30 system pursuant to section 11-291. Before the adoption of contracting
31 procedures the board shall hold a public hearing. The board shall publish
32 one notification in a newspaper of general circulation in the county seat at
33 least fifteen days before the hearing.

34 61. Enter into an intergovernmental agreement pursuant to chapter 7,
35 article 3 of this title for a city or town to provide emergency fire or
36 emergency medical services pursuant to section 9-500.23 to a county island as
37 defined in section 11-251.12. The board may charge the owners of record in
38 the county island a fee to cover the cost of an intergovernmental agreement
39 that provides fire and emergency medical services.

40 62. In counties that employ or have designated an animal control county
41 enforcement agent pursuant to section 11-1005, enter into agreements with
42 foundations or charitable organizations to solicit donations, property or
43 services, excluding enforcement or inspection services, for use by the county
44 enforcement agent solely to perform nonmandated services and to fund capital
45 improvements for county animal control, subject to annual financial and

1 performance audits by an independent party as designated by the county board
2 of supervisors. For the purposes of this paragraph, nonmandated services are
3 limited to low cost spay and neuter services, public education and outreach
4 efforts, pet adoption efforts, care for pets that are victims of cruelty or
5 neglect and support for volunteer programs.

6 63. Adopt and provide for the enforcement of ordinances prohibiting
7 open fires and campfires on designated lands in the unincorporated areas of
8 the county when a determination of emergency is issued by the county
9 emergency management officer and the board deems it necessary to protect
10 public health and safety on those lands.

11 64. Fix the amount of license fees to be paid by any person, firm,
12 corporation or association for carrying on any game or amusement business in
13 unincorporated areas of the county and prescribe the method of collection or
14 payment of those fees, for a stated period in advance, and fix penalties for
15 failure to comply by fine. Nothing in this article shall be construed as
16 authorizing any county to require an occupational license or fee for any
17 activity if state law precludes requiring such a license or fee.

18 65. Adopt and enforce ordinances for the prevention, abatement and
19 removal of graffiti, providing that any restrictions on the retail display of
20 potential graffiti tools be limited to any of the following, as determined by
21 the retail business:

22 (a) In a place that is in the line of sight of a cashier or in the
23 line of sight from a work station normally continuously occupied during
24 business hours.

25 (b) In a manner that makes the product accessible to a patron of the
26 business establishment only with the assistance of an employee of the
27 establishment.

28 (c) In an area electronically protected, or viewed by surveillance
29 equipment that is monitored, during business hours.

30 66. Adopt ordinances and fees related to the implementation of a local
31 stormwater quality program pursuant to title 49, chapter 2, article 11.

32 Sec. 2. Section 11-352, Arizona Revised Statutes, is amended to read:

33 11-352. Adoption of limited county employee merit system by
34 resolution; removal of certain administrative
35 positions by resolution

36 A. Any county may by resolution of the board adopt a limited county
37 employee merit system for ~~any~~ and all county appointive officers and
38 employees. Elected officers shall not be included in such A merit system.

39 B. Any county may by resolution of the board remove certain
40 administrative positions from the county employee merit system. The
41 positions ~~which~~ THAT may be removed from the county employee merit system
42 are:

- 43 1. County manager.
- 44 2. Deputy county manager.
- 45 3. Assistant county manager.

1 4. Chief deputies to elected officials.
2 5. Department directors.
3 6. Deputy directors, not to exceed three in each department.
4 7. One position in each department ~~which~~ THAT reports directly to the
5 director or deputy director as designated by the director and deputy
6 director.

7 8. An administrative position declared exempt after ~~the effective date~~
8 ~~of this section~~ AUGUST 8, 1985. The number of positions declared exempt
9 under this paragraph shall not exceed ~~five~~ TEN per cent of the total number
10 of county appointive officers and employees.

11 C. Any employee who was included as a covered employee in the county
12 employee merit system at the time ~~he~~ THE EMPLOYEE assumed ~~his~~ THE EMPLOYEE'S
13 present position and whose position becomes exempt under ~~the provisions of~~
14 subsection B may elect to remain included under the merit system, but if
15 terminated the employee must be afforded the opportunity to accept another
16 vacant position within the merit system for which the employee is qualified.

17 Sec. 3. Section 12-128, Arizona Revised Statutes, as amended by Laws
18 2010, seventh special session, chapter 6, section 2, is amended to read:

19 12-128. Salary of judges: payment by state and counties

20 Judges of the superior court shall each receive an annual salary
21 pursuant to section 41-1904, which is payable one-half by this state and
22 one-half by the counties respectively, except that in counties with a
23 population of more than two million persons, BEGINNING IN FISCAL YEAR
24 2010-2011, the county shall pay one hundred per cent of the annual salary.

25 Sec. 4. Economic estimates commission: base expenditure limit
26 adjustment

27 Pursuant to section 41-563, subsection D, Arizona Revised Statutes, the
28 economic estimates commission shall adjust the base expenditure limit of a
29 county with a population of more than two million persons to reflect the
30 transfer of the governmental function prescribed by section 12-128, Arizona
31 Revised Statutes, as amended by Laws 2010, seventh special session, chapter
32 6, section 2 and this act.

33 Sec. 5. Retroactivity

34 Section 3 of this act applies retroactively to from and after June 14,
35 2010.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.